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8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 1D 2005 64187

11 DENNIS BIANCHI
12 9224 Via Colina
La Mesa, California 91941

A C C U S A T I O N

13 Physical Therapist License No. PT 10168,
14 Respondent.
15

16 Complainant alleges:

17 **PARTIES**

- 18 1. Steven K. Hartzell (Complainant) brings this Accusation solely in his
19 official capacity as the Executive Officer of the Physical Therapy Board of California (Board).
20 2. On or about January 22, 1988, the Board issued Physical Therapist License
21 Number PT 10168 to Dennis Bianchi (Respondent). This license was in full force and effect at
22 all times relevant to the charges brought herein and will expire on March 31, 2007, unless
23 renewed.

24 **JURISDICTION**

- 25 3. The Board brings this Accusation under the authority of the following
26 provisions of the Business and Professions Code (Code).
27 4. Section 2660 of the Code states, in pertinent part:
28 The board may, after the conduct of appropriate proceedings under the

Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

...

(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapy assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

...

5. Section 2661 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgement of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

6. Title 16, California Code of Regulations, section 1399.20 provides, in pertinent part, that a crime shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under the Physical Therapy Practice Act if "to a substantial degree it evidences present or potential unfitness of a person to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare."

7. Section 2661.5 of the Code states:

(a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any

1 licensee found guilty of unprofessional conduct to pay to the board a sum not to
2 exceed the actual and reasonable costs of the investigation and prosecution of the
3 case.

4 (b) The costs to be assessed shall be fixed by the administrative law judge
5 and shall not in any event be increased by the board. When the board does not
6 adopt a proposed decision and remands the case to an administrative law judge,
7 the administrative law judge shall not increase the amount of the assessed costs
8 specified in the proposed decision.

9 (c) When the payment directed in an order for payment of costs is not
10 made by the licensee, the board may enforce the order of payment by bringing an
11 action in any appropriate court. This right of enforcement shall be in addition to
12 any other rights the board may have as to any licensee directed to pay costs.

13 (d) In any judicial action for the recovery of costs, proof of the board's
14 decision shall be conclusive proof of the validity of the order of payment and the
15 terms for payment.

16 (e) (1) Except as provided in paragraph (2), the board shall not renew or
17 reinstate the license or approval of any person who has failed to pay all of the
18 costs ordered under this section.

19 (2) Notwithstanding paragraph (1), the board may, in its discretion,
20 conditionally renew or reinstate for a maximum of one year the license or
21 approval of any person who demonstrates financial hardship and who enters into a
22 formal agreement with the board to reimburse the board within that one year
23 period for those unpaid costs.

24 (f) All costs recovered under this section shall be deposited in the
25 Physical Therapy Fund as a reimbursement in either the fiscal year in which the
26 costs are actually recovered or the previous fiscal year, as the board may direct.

27 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
28 request the administrative law judge to direct a licensee found to have committed a violation or

violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Crime)

9. Respondent is subject to disciplinary action under section 2660, subsection (d), and section 2661 in that he was convicted of a crime substantially related to the qualifications, functions or duties of a physical therapist, to wit: vandalism. The circumstances are as follows:

A. On or about February 25, 2002, respondent was observed using bolt cutters to force entry into lockers at the 24 Hour Fitness Center in La Mesa, California. Respondent cut the locks off approximately six lockers and left the building. He was subsequently arrested and charged with burglary and vandalism.

B. On April 24, 2002, in *People v. Bianchi*, No. CE220531, the San Diego Superior Court dismissed the burglary charges and respondent entered a plea of guilty to vandalism, i.e., the malicious damage, defacement or destruction of property valued at less than four hundred dollars (\$400.00). Respondent was ordered to pay restitution of fifty-six dollars (\$56.00) to one victim and to stay away from all 24 Hour Fitness Centers.

C. On July 2, 2005, in response to an inquiry by the Physical Therapy Board, respondent admitted to having cut the locks off multiple lockers. Respondent stated that the lockers were day use lockers and that his complaints to 24 Hour Fitness Center staff about the overnight use of these lockers were not acted upon; Consequently, respondent decided to remove the locks himself. Respondent denied any theft from the lockers.

10. Respondent's conduct, as set forth above, constitutes unprofessional conduct and respondent's license is subject to discipline pursuant to the aforementioned provisions of the Business and Professions Code in that respondent was convicted of a crime substantially related to the qualifications, functions or duties of a physical therapist.

1 **PRAYER**

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters
3 herein alleged, and that following the hearing, the Physical Therapy Board of California issue a
4 decision:

- 5 1. Revoking or suspending Physical Therapist License Number PT 10168,
6 issued to Dennis Bianchi;
- 7 2. Ordering Dennis Bianchi to pay the Physical Therapy Board of California
8 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
9 Professions Code section 2661.3;
- 10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: October 26, 2005.

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14 Original Signed By :
15 STEVEN K. HARTZELL
16 Executive Officer
17 Physical Therapy Board of California
18 Department of Consumer Affairs
19 State of California
20 Complainant

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